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Supreme Court of the United States

OCTOBER TERM, 1935.

COMPAGNIE GENERALE TRANSATLANTIQUE, *Petitioner,* *against* PHILIP ELTING, Collector of Customs, Port of New York.	No. 6
HAMBURG-AMERICAN LINE, *Petitioner,* *against* PHILIP ELTING, Collector of Customs, Port of New York.	No. 7

BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONERS.

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BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONERS.

This brief is submitted, by leave of the Court, in behalf of Rio Cape Line Ltd. and other steamship owners who have cases similar to these cases pending in the Circuit Court of Appeals for the Second Circuit and in other Federal Courts and who consider that they have suffered unnecessary losses, as well as much inconvenience, owing to the method adopted by Immigration Officials in administering the Statute which is brought before the Court by the petitioners for interpretation (8 U. S. C. s 167).

The practice disclosed by the records in these cases was early condemned by Judge HOUGH in the case of *Chin Loy* v. *Curran,* 1923 A. M. C. 1145, in which he said:

> "This business of making a jail out of a ship, another man's ship, and thereby saving a little money on the appropriation, I do not think is legal, and I know perfectly well that it is mean. It is not decent. What earthly right has the United States to make a jail out of the *Vechtdijk?* Really, you know it is one of those things that seem to me to bring executive administration into contempt. I will not be of any assistance to them."

Since that time, however, the lower federal courts have interfered but little with the Departmental practice under this Statute.

The Departmental practice permits a boarding inspector to determine finally on primary inspection whether an alien seaman is entitled to shore leave. No record is made or kept of the nature or scope of the inspection, but a detention order issued on the basis of such an inspection, however cursory, even though it may require the detention of the entire alien crew, is held to be binding upon the master and owner and upon the agent, if served upon him. No means of review of the detention order is provided by the Statute as interpreted by the Labor Department. The duty to detain is held to be absolute, and the escape of any seaman so ordered detained is held to fix absolute liability for penalties of $1,000 each, even though the highest degree of diligence has been observed. Neither the Courts nor the Secretary of Labor will give any adequate consideration to the fairness of the inspection or the validity of the detention notice. *British Empire Steam Navigation Co., Ltd.* v. *Elting,* 74 Fed. (2d) 204; *Societa Ligure Di Armamenti* v.

Elting, 74 Fed. (2d) 207. The result is that the mere *ipse dixit* of a boarding inspector often places upon the owner and master the burden of thousands of dollars in penalties as well as serious inconvenience in loading and discharging activities owing to the necessity of keeping the detained seamen on board the vessel in custody or under guard.

So far as the questions immediately presented by the petitioner are concerned, they have been so fully presented in the supporting brief, that little can be added. In our opinion the contentions there made are well founded. There are other questions presented by the record, however, which are of more far-reaching importance and which we believe are open for consideration on these records. *Lowe* v. *Lawler,* 208 U. S. 274.

These questions are as follows:

1. Does the Act contemplate the imposition of fines by the Secretary of Labor, or are they to be enforced by judicial proceedings in the first instance?

2. May a boarding inspector, as distinguished from a Commissioner of Immigration, acting through a Board of Special Inquiry, validly order the detention of alien seamen?

Allegations in the complaints, admitted by the answers, show that the fines were imposed by an assistant to the Secretary of Labor, and that the detention notices were issued by a boarding inspector, No. 6, ff. 4, 5, 6, 12, 13, 14, 41; No. 7, ff. 4, 5, 7, 8, 27.

FIRST POINT.

THE IMMIGRATION ACT CONTEMPLATES THAT THE LIABILITY FOR FINES UNDER SECTION 20 OF THE 1924 ACT SHOULD BE JUDICIALLY DETERMINED.

The Government did not institute any judicial proceedings for the determination of the liability of the petitioners to penalties. The Department of Labor, as an administrative matter, imposed the fines and payment was enforced by the refusal of the Collector of Customs to grant clearance to the petitioners' vessels until the fines were paid.

The liability for such a fine constitutes "a case" of which jurisdiction is given to the Courts of the United States by Article 3, Section 2 of the Constitution, and to the District Courts by the Judiciary Act (28 U. S. C. 41-1a), because it is one that arises under the laws of the United States and because it involves a penalty (28 U. S. C. 41-9). Also Section 25 of the Immigration Act of 1917 (8 U. S. C. 164), which is still in force and applies to both acts, provides in part:

> "That the District Courts of the United States are hereby invested with full jurisdiction of all causes, civil and criminal arising under any of the provisions of this Act * * *."

Since general jurisdiction of such matters has been given to the Courts by the laws and constitution of the United States, such Courts can be divested of that jurisdiction only by express enactment vesting the power in some other tribunal or officer. On that principle Attorney General Moody held that the determination of liability for

the penalties prescribed in Section 15 of the Act of March 3, 1903 (32 Stat. 1217, Sec. 15), was not an administrative function.

That Section was as follows:

> "Sec. 15. That in the case of the failure of the master or commanding officer of any vessel to deliver to the said immigration officers lists or manifests of all aliens on board thereof as required in sections twelve, thirteen, and fourteen of this Act, he shall pay to the collector of customs at the port of arrival the sum of ten dollars for each alien concerning whom the above information is not contained in any list as aforesaid."

It will be observed that the above section, like Section 20 of the 1924 Act, did not specify in terms who should determine liability for the fine. Both sections provide simply that upon violation the designated person "shall pay to the Collector of Customs" a certain sum of money. With respect to the manner in which liability should be determined, the Attorney General in part said:

> "Now it seems certain that this statute has not conferred upon the collector of customs the judicial power to hear and determine this matter, to adjudge the master guilty, and to impose the penalty prescribed. Thus to sit in judgment, to hear and determine, to adjudge a person guilty of a violation of a penal statute is a high judicial function which can never be exercised by an executive officer, unless it has been expressly conferred upon him by some law. Had Congress intended to confer this important judicial power upon the collector of customs, it is morally certain that it would have expressed such intention in language fairly susceptible of such mean-

> ing. As Congress has not done so, it is but fair to conclude that in this case, as in so many others where a fine or penalty is prescribed, with no specific mode for its enforcement, it intended to leave the enforcement and collection of the fine or penalty to the ordinary recognized modes of legal procedure in such cases, as by a prosecution for the offense or an action to recover the penalty. Jurisdiction in general in cases arising under the immigration laws has been conferred upon the circuit and district courts concurrently'' (25 Op. Atty. Gen. 336 at 338).

The same principle was recognized by this Court in *Oceanic Steamship Co.* v. *Stranahan,* 214 U. S. 320, at page 329, where it was said:

> "Both the secretary and the collector were expressly authorized by law, the one to impose and the other to collect the exactions which were made."

That language, however, was used with respect to Section 9 of the Immigration Act of 1903, which by its express terms conferred jurisdiction upon the Secretary of Commerce and Labor to determine liability for fines under that section. The present section does not specify how or by whom the liability for a fine shall be determined.

The immigration law itself observes this principle. For instance, the penalties provided in Section 16 of the Act of 1924 (8 U. S. C. 216), Section 9 of the 1917 Act as amended by Section 26 of the 1924 Act (8 U. S. C. 145), and Sections 35 and 36 of the 1917 Act (8 U. S. C. 169, 171) grant express authority to the Secretary to determine the liability for fines. Many of the other violations of the Act, however, are left for judicial determination in the first instance. Cf. 8 U. S. C. 138, 139, 143, 144, 146, 163, 165, 220.

The provisions of subdivision b of Section 20, dealing with the degree of evidence required to establish a violation, is a strong indication that Congress had in mind that the liability was to be established by judicial rather than administrative procedure. That such was the case in fact is confirmed by the statement in the Senate by Senator Reed, Chairman of the Senate Conference Committee, which reported this section for passage (Cong. Rec., 68th Congress, First Session, p. 8825):

> "Mr. Reed of Pennsylvania: I fully agree with Mr. Furuseth's idea that the men ought not to be detained on the ship, but I reassert that he is overanxious and that there is nothing in the provisions to which he calls attention that could possibly be used to hold the men on ship in such a fashion. The last section that was put in was inserted at the request of the district attorney of New York, who has found it impossible to convict the masters of ships that come in with double crews and go out with the scant requirements of the law. They are smugglers of immigrants. We have to be able to convict them for that smuggling. Unless we can have a presumption that they intended to smuggle from the fact that their outgoing manifest did not include the men who were on the incoming manifest we are never going to get any convictions. No master could hold his men on ship by virtue of that section. If he tried it they could be gotten out on *habeas corpus* in a minute. Unless the Secretary of Labor should undertake to make such a preposterous regulation as that no alien seaman should leave his ship—of course he never would attempt to make such a regulation—they have a vested right to come on shore under this bill."

The determination of liability for fines of this nature had always been by judicial proceedings, and, as indicated

by the statement of Senator Reed, the amendment embodied in Section 20 was on the request of the District Attorney in New York, who had found it difficult to convict under the previous Act because of the high degree of proof required. *The Kathlambra,* 18 Fed. (2d) 113.

Such cases as *United States* v. *J. H. Winchester & Co.,* 40 Fed. (2d) 472, have recognized the right of district courts to take jurisdiction *de novo* of cases arising under this section, where the Government finds it necessary to proceed for their collection under bonds given as security to obtain clearance. And in the case of *Sinclair Navigation Co.* v. *United States* (C. C. A. 5), 32 Fed. (2d) 90, the Court manifestly was of the opinion that the right to refuse clearance was intended merely to provide a means of obtaining security for the fine, if, and when liability should be established and that determination of liability was for the courts. It was there said, page 91:

> "The fine provided by the said section is a civil penalty, and, unless voluntarily paid, could be collected only by a civil suit. In that event the owner of the vessel would have his day in Court, and an opportunity to defend against the imposition of the fine."

Finally the statute must be held to be unconstitutional if the construction applied by the lower courts in the cases at bar should be adopted.

Lipke v. *Lederer,* 259 U. S. 557. In that case this Court, in construing section 35 of the National Prohibition Act, c. 85, 41 Stat. 305, very similar in its penalty provision to the one now under consideration, and involving penalties of similar amount, found it necessary, in order to uphold its constitutionality, to construe the provision as contem-

plating the determination of liability by judicial proceedings. In that connection it was said, page 562:

> "A revenue officer without notice has undertaken to assess a penalty for an alleged criminal act and threatens to enforce payment by seizure and sale of property without opportunity for a hearing of any kind.
>
> "Section 35 prescribes no definite mode for enforcing the imposition which it directs, and, if it be interpreted as above stated, we do not understand counsel for the United States claim that relief should be denied to the appellant. Before collection of taxes levied by statutes enacted in plain pursuance of the taxing power can be enforced, the taxpayer must be given fair opportunity for hearing—this is essential to due process of law. *Central of Georgia Ry. Co.* v. *Wright*, 207 U. S. 127, 136, 138, 142. And certainly we cannot conclude, in the absence of language admitting of no other construction, that Congress intended that penalties for crime should be enforced through the secret findings and summary action of executive officers. The guarantees of due process of law and trial by jury are not to be forgotten or disregarded. See *Fontenot* v. *Accardo*, 278 Fed. 871."

The practice disclosed by this record falls as much within the condemnation of the foregoing remarks as did the practice against which they were directed.

In these cases orders to detain were issued by an Inspector, which, so far as can be ascertained from the record, may have been at the whim or caprice of the Inspector. If the statute be taken literally, the orders, if valid, imposed an absolute duty on the masters to detain the men on board, which, despite their utmost diligence, they were unable to do. The men having escaped, the evidence and affirmative

defense submitted by the carriers was ignored and a fine was imposed solely because the Inspector had issued a notice to detain and the men had escaped, without requiring evidence of any justification for the issuance of the order.

Under such practice liability for a penalty of $1000 for each seaman is in effect incurred the moment that the Immigration Inspector hands to the master, or any person on board, a notice to detain any of his seamen, unless the master should be fortunate enough to detain the men until departure. And this is so, regardless of whether any valid reason existed for issuing the order. A carrier does not have an opportunity for a hearing in any true sense anywhere along the line.

The dangerous extent to which the lower courts have gone in approving such administrative practices is shown by the fact that fines have been upheld, although imposed by an assistant to the Secretary of Labor, as in these cases, or by the Commissioner General of Immigration or an Assistant to the Secretary of Labor, as in the cases of *United States* v. *Indemnity Co. of N. A.*, 4 F. (Supp.) 636 (D. C., Ala.), and *Lloyd Royal Belge* v. *Elting*, 61 F. (2d) 745 (C. C. A. 2nd). None of these officials are given the power to impose fines by any of the provisions of the Immigration Acts.

This case, then, presents a situation which, we believe, requires the condemnation of Section 20 of the 1924 Act as unconstitutional unless it is subject to the construction herein advocated.

Remarks of this Court in *Boyd* v. *United States*, 116 U. S. 616, at 635, are pertinent:

"Illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy and leads to gradual depreciation of the right as if it consisted more in sound than in substance."

SECOND POINT:

THE ORDERS TO DETAIN WERE INVALID.

a. *Bona fide seamen cannot validly be deprived of ordinary shore leave.*

In these cases there is nothing to show why the Inspector was not satisfied that the men ordered detained were bona fide seamen, and it is neither easy nor reasonable to believe that a well known passenger ship like the *"Ile de France"* would have in her service 102 men who were not bona fide seamen.

Section 3 of the Immigration Act, 1924, 8 U. S. C. 203, must be read in connection with Section 20, because it defines non-immigrants, which classification includes bona fide alien seamen seeking to enter the United States temporarily solely in pursuit of their calling.

By virtue of that section, as well as by virtue of the Seamen's Act, 38 Stat. L. 1164, it cannot be doubted that bona fide alien seamen, of whatever race or nationality, are entitled to shore leave while in ports of the United States. This was recognized by this Court in *Taylor* v. *United*

States, 207 U. S. 120, and by the Second Circuit in *The Limon,* 22 F. (2) 270. It is also recognized in Section 15 of the Immigration Act of 1924 (8 U. S. C. 215).

There being no basis for the orders to detain, they were nullities, and no proceedings for the imposition of fines could be founded upon them.

b. *The status of all aliens, whether immigrants or non-immigrants, must be determined by a Board of Special Inquiry and an order to detain without such determination is invalid.*

Section 20 of the 1924 Act is highly penal in character. It appears to contemplate absolute liability on the part of the carrier for the payment of a fine of $1,000 on account of each alien who may escape after a valid order to detain has been issued. No citation of authorities is necessary to the proposition that such a statute is to be strictly construed and that no penalty will be incurred except for a clear violation of its terms.

The order to detain is required by the Act to be made by "the immigration officer in charge at the port of arrival." That, of course, refers to the Commissioner of Immigration, not to a mere boarding inspector. The orders to detain in these cases were issued by boarding inspectors. It has been argued that since the words "by direction of immigration officer in charge" precedes the name of the Immigration Inspector that the order was really the act of the Commissioner himself, but the facts do not justify the argument.

The Inspector in charge in reporting the case to the Commissioner of Immigration said in part:

"Inspector Lapointe, who examined the crew of *S. S. Ile de France,* upon arrival yesterday, *directed* the detention on board of 102 members of the crew * * *" (No. 6, f. 31). See f. 15 in No. 7. (Italics ours.)

It is plain, therefore, that the Commissioner of Immigration assumed no responsibility in this matter, but delegated his duties to a boarding inspector. Such duties cannot be validly delegated.

New Jersey Wholesale Drug Co. v. *Brown,* 289 Fed. 108;

Bay State Wholesale Drug Co. v. *Potter,* 277 Fed. 529.

When the provisions of the Immigration laws are taken as a whole, the purpose of Congress in requiring the detention order to be issued by the Commissioner rather than a mere Inspector is made plain.

The Commissioner in ascertaining the status of aliens arriving at ports of the United States acts through the instrumentality of a Board of Special Inquiry, which was established by law for that purpose (8 U. S. C. 153).

The law is specific that all *aliens* arriving in the United States by vessel are to receive a primary inspection on board, and that unless they are clearly entitled to land they must be brought before a Board of Special Inquiry. It makes no exceptions. These provisions are found in Sections 15 and 16 of the 1917 Act (8 U. S. C. 151, 152), the pertinent provisions being as follows (italics ours):

"Sec. 15. That upon the arrival at a port of the United States of any vessel bringing *aliens* it shall be the duty of the proper immigration officials to go

or to send competent assistants to the vessel and there *inspect all such aliens* • • •.

"Sec. 16. • • • *Every alien* who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for *examination in relation thereto by a board of special inquiry.*"

The term "alien" is thus defined by the Act:

"The term 'alien' includes any individual not a native born or naturalized citizen of the United States • • •" (8 U. S. C. 224 b).

And it was said in *The Limon*, 22 F. (2) 270 (C. C. A. 2nd), "Congress made no distinction between aliens and alien seamen."

Section 3 of the 1924 Act (8 U. S. C. 203) divided all aliens arriving at a port of the United States into two classifications, immigrants and non-immigrants. Immigrants were subdivided into two further classifications, quota and non-quota (8 U. S. C. 204-205).

All immigrants, whether quota or non-quota, are required to hold immigration visas (8 U. S. C. 213). No such provision is made with respect to non-immigrants. Their status is determined by other documents, depending upon the character of the non-immigrant.

Non-immigrants include: (1) Government officials, (2) tourists, (3) aliens in transit, (4) bona fide seamen, and (5) aliens coming to the United States under express treaty provisions.

It has been argued that the provisions of Sections 15 and 16 requiring aliens of doubtful status to be brought before the Board of Special Inquiry apply only to immi-

grants and have no application to non-immigrants. That argument is of no avail because the basis of a detention order necessarily is that the alien is not a bona fide seaman. If he is not a bona fide seaman, he is an immigrant, as was pointed out by this Court in *Karnuth* v. *United States*, 279 U. S. 231, in which it was said (242, 243):

> "This term [immigrant] thus includes every alien coming to this country either to reside permanently or for temporary purposes, unless he can bring himself within one of the exceptions."

The law itself does not make the suggested distinction, and the fallacy of the argument is evident when it is considered that if those provisions are not applicable to non-immigrants then there is no provision, whatever, in the law to safeguard against the illegal entry of non-immigrants. As a matter of fact every other class of non-immigrants, whose status is questioned, is brought before a Board of Special Inquiry, as a matter of course.

The decisions of the courts and the practice of the Department alike recognize that the method of determining the status of aliens is the same, whether they are immigrants or non-immigrants. *Domenici* v. *Johnson*, 10 Fed. (2d) 433; *U. S. ex rel Rizzo* v. *Curran*, 13 Fed. (2d) 233; Immigration Rule 6, subdivision A, paragraph 3, and Rule 3, subdivision H, paragraphs 2 and 3 of the Immigration Rules of January 1, 1930. Seamen alone have been denied this privilege and have been left to the whim or caprice of boarding inspectors.

Such a construction is contrary to the clear intention of the Act when due consideration is given to the fact that a detention order is required to be made by the Commissioner of Immigration, who can act in such cases only

through the medium of a board of special inquiry—the statutory fact finding body. It is also contrary to the practice intended by Congress when the provision was adopted. This is shown by the remarks of Senator Reed, chairman of the Conference Committee, in reporting the Conferees' agreement to the Senate (Cong. Rec., 68th Congress, First Session, p. 8826):

> "Mr. Reed of Pennsylvania. The immigration inspector goes on board the vessel and inspects every member of the crew and every member on the passenger list. He finds some that claim to be government officials and others that claim to be seamen employed on the ship, and he has to use his judgment. If he finds a man claiming to be a government official who he thinks is not a government official, he says, 'You go to Ellis Island for examination by the board of inquiry,' and the same thing if he finds a seamen whom he does not think is a bona fide seaman.
>
> "Mr. Shipstead. That takes the seaman into the immigration question if he is taken to Ellis Island.
>
> "Mr. Reed of Pennsylvania. Of course. Every human being that comes to this country from another country has to be examined by an immigration inspector. Everybody, including government officials, has to pass some scrutiny.
>
> "Mr. Shipstead. And the seaman on the ships?
>
> "Mr. Reed of Pennsylvania. Including the seamen on the ships. The crew of the vessel is inspected just like the passengers on the vessel and they have to show the bona fides of their status just the same as an ambassador who comes here. He is outside the immigration laws if he presents evidence that he is a real ambassador, and the same thing is true of an alien seaman. They have to show something to establish their status. That is the exact situation.

"Mr. Shipstead. Then what is to be done with him?

"Mr. Reed of Pennsylvania. *If the inspector says that he is a fraud, that he is not what he pretends to be, he sends him to Ellis Island or similar detention station, where he is examined before the board of inquiry consisting of three judges.* If he thinks the man is not a fraud he passes him and he comes right in. It has been worked that way for many years." (Italics ours.)

Thus Congress showed its solicitude for the right of seamen to enjoy shore leave while in our ports. It showed the same solicitude in Section 15 of the 1924 Act (8 U. S. C. 215), where it was provided that bonds might be exacted of all non-immigrants, *except seamen,* to insure the maintenance of their status and their departure from the United States.

Furthermore, Section 20 of the Act (8 U. S. C. 167), especially when application is given to subdivision C of that section, clearly contemplates that the deportation of the seamen shall be at the direction of the Secretary of Labor. There is no means by which the Secretary can be placed in the position of exercising the discretionary power granted by subdivision C if the seaman is not brought before a Board of Special Inquiry and a record made for his consideration.

It has been suggested that it would be a physical impossibility for the Commissioner of Immigration at this port, himself, to make a personal inspection and to sign detention orders in the case of every vessel arriving at his port. But the Commissioner, himself, does not go aboard vessels for the examination of aliens of any classification. The aliens are sifted by primary inspection. Only the doubtful cases are sent to the immigration station and they are there

examined not by the Commissioner but by a Board of Special Inquiry. It is the business of the Board of Special Inquiry to examine all aliens of doubtful status, and there is no reason why it should be more burdensome to examine seamen than to examine the cases of the many incoming aliens of other classifications, both immigrants and non-immigrants. In any case, mere expediency should not form the basis of a judicial determination of personal or property rights, nor operate to their prejudice.

c. *The fines were not imposed by the Secretary of Labor.*

Even though it should be held that determination of liability for such fines may be made by the Secretary of Labor, these fines cannot be upheld, because they were not imposed by him. They purport only to have been imposed by W. N. Smelser, an "Assistant to the Secretary," on the recommendation of L. Paul Winings, Chairman, Secy. and Comr. Genl.'s Board of Review (No. 6, f. 41; No. 7, f. 27).

The Board of Review is not a statutory body, but is a voluntary board created within the Department itself, consisting of three or more employees of the Department. Mr. Smelser, who ordered the imposition of the fine, was neither the Secretary of Labor nor an Assistant Secretary of Labor. He claimed to be and was only an "Assistant to the Secretary." It thus appears that judicial functions of serious importance were left to Departmental Clerks instead of being performed by the officer who, according to the contention of the defendant, had been given the power to exercise those functions.

Such duties cannot legally be delegated to subordinates, and any action of a subordinate pursuant to such delega-

tion is a nullity. *Runkle* v. *United States,* 122 U. S. 543; *New Jersey Wholesale Drug Co.* v. *Brown,* 289 Fed. 108; *Bay State Wholesale Drug Co.* v. *Potter,* 277 Fed. 529.

It is not contended that routine administrative functions of such an official as the Secretary of Labor cannot be delegated to others in the Department. Judicial duties, however, stand on an entirely different plane. They require the personal consideration of the designated officer. While he may call others to his assistance in the way of assembling facts and otherwise advising, the determination of the question for decision must be his personal act.

In this case there is nothing to indicate that the Secretary of Labor had anything whatever to do with the imposition of the fine.

On this point this Court, in *Runkle* v. *United States, supra,* made the following observations, page 557:

> "Here, however, the action required of the President is judicial in its character, not administrative. As Commander-in-Chief of the Army he has been made by law the person whose duty it is to review the proceedings of courts-martial in cases of this kind. This implies that he is himself to consider the proceedings laid before him and decide personally whether they ought to be carried into effect. Such power he cannot delegate."

If the points herein discussed are well taken, we believe the judgments below should be reversed on these grounds, in addition to the more technical ones presented by the Petitioners, because of the importance of having an authoritative interpretation of the true meaning of this ambiguous statute, as well as to set the administrative officials right as to the conditions precedent to be observed in the

collection of these drastic penalties through summary and extra-judicial acts such as are disclosed in the cases at bar.

Respectfully submitted,

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